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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

HERBERT ALLEN,

Defendant and Appellant.

2d Crim. No. B247228  
(Super. Ct. No. SA078077)  
(Los Angeles County)

This is a presentence credits appeal. (Pen. Code, §§ 2900.5, 4019.)<sup>1</sup> Herbert Allen appeals from the February 13, 2013 judgment entered after he pled no contest in case number GA088409 to 22 counts of second degree burglary (§ 459), vandalism (§ 594, subd. (a)) and admitted a prior prison enhancement (§ 677.5, subd. (b)). Appellant admitted violating probation in two other cases: case number SA076474 and case number SA078077 which were consolidated for sentencing.

At the February 13, 2013 sentencing hearing, the trial court revoked probation in case number SA078077 and ordered appellant to serve a seven year state prison sentence previously imposed for multiple counts of second degree burglary (§ 459) and vandalism (§ 594, subd. (a)).

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<sup>1</sup> All statutory references are to the Penal Code unless otherwise stated.

In case number GA088409, the trial court sentenced appellant to eight months (one third the midterm) to be served consecutive to the seven year sentence in case number SA078077.

The trial court reinstated and terminated probation in the third case, case number SA076474. ,

In case numbers SA078077 and GA088409, appellant was awarded 58 days custody credit plus 58 days conduct credits. (§§ 2900.5, 4019.)

Appellant appealed, contending that he was entitled to additional presentence credits in case number SA078077. On March 21, 2013, the trial court corrected the sentence to reflect that appellant was awarded 605 presentence custody credits (303 actual days and 302 conduct credit) in case number SA078077.

Appellant contends he is entitled to more presentence credits.

We appointed counsel to represent appellant in this appeal. After examining the record, counsel filed an opening brief raising no issues. On November 12, 2013, we advised appellant that he had 30 days to personally submit any contentions he wished us to consider.

On December 16, 2013, appellant filed a supplemental brief, alleging that the trial court erred in not awarding presentence credits from January 16, 2011 to September 27, 2011 in case number SA078077. When the change of plea was entered in case number SA078077, appellant agreed to waive "back time," i.e., presentence credits prior to September 27, 2011. The plea and conviction was the subject of a prior appeal that appellant abandoned on April 4, 2013. (B243380.) We have taken judicial notice of the record in B243380 which indicates that appellant waived presentence credits accruing prior to September 27, 2011.

Appellant's also alleges that he was denied effective assistance of counsel and due process. These contentions are not supported by the record. (*Strickland v. Washington* (1984) 466 U.S. 668, 687 [80 L.Ed.2d 674, 693]; *People v. Bolin* (1998) 18 Cal.4th 297, 333.)

We have reviewed the entire record and are satisfied that appellant's attorney has fully complied with his responsibilities and that no arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436, 443; *People v. Kelly* (2006) 40 Cal.4th 106, 126.)

The judgment is affirmed.

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YEGAN, J.

We concur:

GILBERT, P.J.

PERREN, J.

Patricia Hegarty, Judge  
Superior Court County of Los Angeles

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Gideon Margolis, under appointment by the Court of Appeal, for Defendant  
and Appellant.

No appearance for Respondent.